

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
MARKEL AMERICAN INSURANCE COMPANY
As subrogee of DENNIS HALL,

Plaintiff,

NOTICE OF CROSS
MOTION

-against-

INDEX NO. CV10-5447

ANGELO GRIMALDI, JOSEPH SGRO
RICHARD STIEGLITZ, JEFFREY CROPPER
JAMES BUCK, ANTHONY PERRY
CURTIS CROPPER,

Justice: (Feuerstein, J.) (Wall, M.J.)

Defendants.
-----X

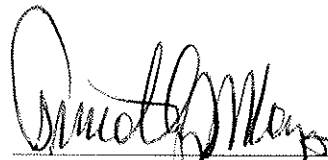
**MOTION OF DEFENDANT, ANGELO GRIMALDI
JOINING IN CO-DEFENDANTS' MOTION TO DISMISS**

COMES NOW Defendant , ANGELO GRIMALDI, To respectfully submit the instant Cross Motion joining in the Motion to Dismiss filed by Co-Defendant, JAMES BUCK. In support of its Motion JAMES BUCK states that on November 23, 2010, Plaintiff filed its Complaint in this matter, alleging conversion and trespass to chattels of a vessel and trailer. The Complaint states that the events took place on November 23, 2007 at Derebery Performance Marine, 235 Highpoint Road, Pottsboro, Texas 75076. The Complaint names seven (7) separate Defendants. Plaintiff's Claims must be dismissed pursuant to Rules 12(b)(6) and 12(b)(1) of the Federal Rules of Civil Procedure. The claims pursuant to diversity jurisdiction are indisputably time-barred under New York's "borrowing statute" (CPLR Section 202). The exhibits attached to Defendant BUCK'S Notice of Motion clearly demonstrate that admiralty jurisdiction cannot be asserted

under the Supreme Court's two-pronged maritime jurisdiction test. The Complaint does not contain facts to support Plaintiff's claims and is merely a collection of conclusory. For the reasons set forth in the Motion to Dismiss, ANGELO GRIMALDI believes that the Plaintiff's Complaint is fatally flawed and should be dismissed by this Court. ANGELO GRIMALDI joins in the Motion to Dismiss rather than filing its own Motion separately to minimize the burden on this Court, which might otherwise be faced with seven (7) separate motions directed at Plaintiff, MARKEL AMERICAN INSURANCE COMPANY, as subrogee of DENNIS HALL'S Complaint.

In light of the foregoing, and subject to the qualifications set forth herein, ANGELO GRIMALDI respectfully requests that this Court grant the Motion to Dismiss, together with such other and further relief as this Court deems necessary.

Dated: Blue Point, New York
March 1, 2011



BY: TIMOTHY P. MAZZEI, ESQ.
MAZZEI AND BLAIR
Attorneys for Defendant
Angelo Grimaldi
Office & P.O. Address
9B Montauk Highway
Blue Point, New York 11715
(631) 363-8600

TO: RUBIN, FIORELLA & FRIEDMAN, LLP
Attorneys for Plaintiff
292 Madison Avenue, 11th Floor
New York, New York 10017
(212) 953-2381

EGAN & GOLDEN, LLP
Attorneys for Defendant
JAMES BUCK
96 South Ocean Avenue
Patchogue, New York 11772
(631) 447-8100

WINOGRAD & WINOGRAD, P.C.
Attorneys for Defendant
JOSEPH SGRO
450 Seventh Avenue, Suite #1308
New York, New York 10123
(212) 268-6900

MICHAEL J. BROWN, P.C.
Attorneys for Defendant
RICHARD STIEGLITZ
320 Carleton Avenue, Suite 2000
Central Islip, New York 11722
(631) 232-9700

FINKELSTEIN & FEIL, LLP
Attorneys for Defendant
ANTHONY PERRY
666 Old Country Road, Suite 310
Garden City, New York 11530
(516) 280-3660

AFFIDAVIT OF SERVICE BY MAIL

STATE OF NEW YORK)
 : ss :
COUNTY OF SUFFOLK)

Janice Mariboe Mauro being duly sworn, deposes and says; I am not a party to this action, am over 18 years of age and reside in Holtsville, New York.

That on the 4th March, 2011, I served the within Notice of Cross Motion upon:

RUBIN, FIORELLA & FRIEDMAN, LLP
Attorneys for Plaintiff
292 Madison Avenue, 11th Floor
New York, New York 10017
(212) 953-2381

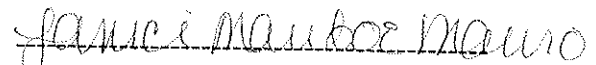
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Patchogue, New York 11772
(631) 447-8100

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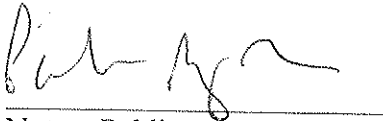
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666 Old Country Road, Suite 310
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(516) 280-3660

by depositing a true copy of same securely enclosed in a post-paid wrapper, in an official depository under the exclusive care and custody of the U.S. Postal Service within the State of New York.


Janice Mariboe Mauro

Sworn to before me this 4th
day of March, 2011



Notary Public

PATRICIA STONE BLAIR
Notary Public, State of New York
No. 11111
Qualified 1/1/11
Commission Expires 1/1/14

MARKEL AMERICAN INSURANCE COMPANY AS SUBROGEE OF DENNIS HALL,

Plaintiff,

-against-

ANGELO GRIMALDI, JOSEPH SGRO, RICHARD STEGLITZ, JEFFREY CROPPER
JAMES BUCK, ANTHONY PERRY AND CURTIS CROPPER,

Defendant

NOTICE OF CROSS MOTION

MAZZEI AND BLAIR

ATTORNEYS AT LAW

Attorney(s) for Defendant GRIMALDI

Office and Post Office Address, Telephone

9B Montauk Highway
BLUE POINT, NEW YORK 11715

To

Signature (Rule 130-1.1-a)

Print name beneath

Service of a copy of the within is hereby admitted.

Attorney(s) for

Dated: _____

PLEASE TAKE NOTICE:

☐ NOTICE OF ENTRY

that the within is a (certified) true copy of a
duly entered in the office of the clerk of the within named court on

☐ NOTICE OF SETTLEMENT

that an order
will be presented for settlement to the HON.
within named Court, at
on

at

M.

of which the within is a true copy
one of the judges of the

Dated,

Yours, etc.

MAZZEI AND BLAIR